

National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL
Advice Memorandum

DATE: April 21, 1998

TO: Robert H. Miller, Regional Director, Region 20

FROM: Barry J. Kearney, Associate General Counsel, Division of Advice

SUBJECT: NABET-CWA Local 51 (Mike Harvey Honda), Case 20-CC-3324

560-2575-6700

This Section 8(b)(4)(ii)(B) case was submitted for advice on whether the Union's display of a 15 foot banner reading "Please Don't Shop Here", where the demonstrators also shuffled their feet back and forth one to two feet, constituted picketing.

We conclude that the Union's conduct amounted to pure speech and not picketing.⁽¹⁾ In *Best Interiors*, where the union similarly displayed a 15 foot banner in front of the neutral's premises, we found such conduct to be pure speech, and not confrontational within the meaning of 8(b)(4)(ii), even where the banner's wording was misleading and false. In that case, as here, the banner was directed solely at the neutral's customers, i.e., there was no contention nor any evidence of inducement of individuals to strike or refuse to handle goods or perform services within 8(b)(4)(i). We therefore find inapplicable Board cases holding that the strategic placement of signs directed at employees, sometimes after prior picketing, amounted to more than mere speech and instead constituted "signal picketing."⁽²⁾

We note that the banner displayed in *Best Interiors* was unaccompanied by the slight movement of the demonstrators in this case. This slight movement here, however, was not a signal to induce a work stoppage or an interruption of deliveries. In *Alden Press, Inc.* 151 NLRB 1666 (1965), the Board cited with approval a circuit court statement: "One of the necessary conditions of picketing is a confrontation in some form between union members and employees, customers, or suppliers who are trying to enter the employer's premises." (citation omitted).⁽³⁾ The instant foot shuffling was in response to a police demand, and not intended to be confrontational and, in our view, insufficient to make confrontational what otherwise was pure speech.

B.J.K.

¹ *Carpenters Local 1506 (Best Interiors)*, Case 21-CC-3234, Advice Memorandum dated March 13, 1997.

² Cf., e.g., *Teamsters, Local 182 (Woodward Motors, Inc.)*, 135 NLRB 851 (1962) and *Furniture Workers (Jamestown Sterling Corp.)*, 146 NLRB 474 (1964) (watching strategically placed picket signs more than mere speech); *Lumber and Sawmill Workers (Stoltze land and Lumber co.)*, 156 NLRB 388, 394 (1965) (handbills posted on plywood and car hoods together with handbills in front of neutral employer was "to confront both customers and employees").

³ *Alden Press*, 151 NLRB at 1669, quoting *NLRB v. United Furniture Workers of America*, 337 F.2d 936, 940 (2d Cir. 1964).